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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MATTHIAS ERNST, TOBIAS STOTTER, and STEFAN ELBS

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Appeal 2009-006764  
Application 10/539,506  
Technology Center 2400

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Before DENISE M. POTIER, GREGORY J. GONSALVES, and ERIC B. CHEN, *Administrative Patent Judges*.

GONSALVES, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-23. (App. Br. 1.) We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

### *The Disclosed Invention*

The disclosed invention includes “a method for automatically identifying an access right to protected areas of networks, in particular in the interconnection of networks that constitute the internet . . .” (Spec. p. 1.)

Exemplary claim 1 follows:

1. Method for automatically identifying an access right to protected areas in a first network using a unique connection identifier of a second network, comprising the following procedural steps:

dynamic or static assignment of a unique identifier of the first network for a terminal, during or prior to the latter’s connection to the first network by means of the second network;

storage of a combination of at least the unique connection identifier of the second network by means of which the connection was made, and the unique identifier of the first network in an authentication unit;

a provider of the protected area requesting the authentication unit to determine the unique connection identifier of the second network using the unique identifier of the first network when the terminal would like access to the protected area;

authenticating the unique connection identifier of the second network and/or communicating the unique connection identifier of the second network to the provider of the protected area by means of the authentication unit; and

checking whether an access right for the protected area exists for the unique connection identifier of the second network.

The Examiner rejected claims 1-23 as anticipated under 35 U.S.C. § 102(e) by Nakajima (U.S. Patent Publication No. 2003/0169714).

## ISSUES

Appellants' responses to the Examiner's positions present the following issues:

1) Did the Examiner establish that Nakajima discloses "a provider of the protected area requesting the authentication unit to determine the unique connection identifier of the second network using the unique identifier of the first network when the terminal would like access to the protected area," as recited in claim 1?

2) Did the Examiner establish that Nakajima discloses "provision of at least one unique identifier respectively from at least two different networks while a connection to both networks exists," as recited in claim 16?

## FINDINGS OF FACT (FF)

### *Nakajima*

1. Nakajima discloses “a device and method for providing communication services, such as a wireless LAN connection and a cable TV service, via a network.” (¶ [0001].)

2. A mobile terminal requesting communication services transmits a service request to a subscriber system containing:

a service delivery point identification code identifying a service delivery point through which a service using the Internet is provided, specifically, ID (ZZZZ) and an IP address (XXX.XXX.XXX.XXX.) of service terminal 101; and also identification information of mobile terminal 105, specifically, a network identification code (A) and a telephone number (B) of the mobile terminal.

(¶ [0037].)

3. An identification unit receives the service request via a communication unit of the subscriber system and determines “whether mobile terminal 105 is under management of the subscriber system (step S303) by determining whether the network identification code (A) and the telephone number (B) included in the service request are stored in a subscriber database 210D.” (¶ [0038].) If a determination is made that the mobile terminal is under management of the subscriber system, the authentication unit “sends a service permission notification including the service delivery point identification to service gateway 102 (step S304).” (¶ [0039].)

## PRINCIPLES OF LAW

The Examiner bears an initial burden of factually supporting an articulated rejection. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). “It is axiomatic that anticipation of a claim under § 102 can be found if the prior art reference discloses every element of the claim . . . .” *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986).

## ANALYSIS

### *Issue 1- Claims 1-15 and 22-23*

Appellants assert that Nakajima does not “disclose or suggest the claimed ‘a provider of the protected area requesting the authentication unit to determine the unique connection identifier of the second network using the unique identifier of the first network when the terminal would like access to the protected area,’ recited in claim 1.” (App. Br. 6.) The Examiner reasons that “[i]n paragraphs 0038-0040 of Nakijima reference, these portions point out that the authentication unit determines the telephone number of the mobile terminal using the IP address embedded in the service request when the mobile terminal requests access to the protected area.” (Ans. 10.) But these paragraphs of Nakajima do not disclose the determination of the mobile’s telephone number (e.g., the second network’s unique connection identifier) by the authentication unit from the IP address (e.g., the first network’s unique identifier) embedded in the service request. (Reply 2-4; *accord* FF 3.) Rather, the mobile’s telephone number is also in the service request and therefore, need not be determined by the authentication unit. (Reply 2; *accord* FF 2.)

Therefore, we will not sustain the Examiner's rejection of independent claim 1, and claims 2-15 and 22-23 dependent therefrom.

*Issue 2- Claims 16-21*

Appellants assert that Nakajima does not disclose "provision of at least one unique identifier respectively from at least two different networks while a connection to both networks exists," as recited in claim 16. (App. Br. 12; Reply 7.) The Examiner reasons that "Nakajima further discloses the stored combination of identifiers comes from different networks." (Ans. 12.) But Nakajima does not necessarily disclose that the identifiers are provided "while a connection to both networks exists." (See Reply 7.) That is, Nakajima discloses the mobile terminal within one network and the service terminal within a second network are first connected to each other so that the service terminal can send a service terminal's ID and IP address to the mobile terminal. (See Nakajima, ¶ 0036.) However, Nakajima does not necessarily state that these devices, and thus their respective networks, remain connected when service request, providing an unique identifier (e.g., a service terminal's IP address, mobile terminal's phone number) from two different networks (see FF 2), is made to the subscriber system (see FF 3), which is required to anticipate claim 16.

Therefore, we will not sustain the Examiner's rejection of independent claim 16, and claims 17-21 dependent therefrom.

**DECISION**

We reverse the Examiner's decision rejecting claims 1-23.

Appeal 2009-006764  
Application 10/539,506

REVERSED

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